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NEW JERSEY ADMINISTRATIVE CODE
TITLE 13
LAW AND PUBLIC SAFETY
CHAPTER 44K
OCCUPATIONAL THERAPY ADVISORY
COUNCIL

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SUBCHAPTER 1. GENERAL PROVISIONS

13:44K-1.1 PURPOSE AND SCOPE

- a) The rules in this chapter implement the provisions of the Occupational Therapy Licensing Act (the Act), N.J.S.A. 45:9-37.51 et seq., and regulate the practice of occupational therapy within the State of New Jersey.
- b) Except as set forth in (c) below, this chapter shall apply to all applicants for licensure as an occupational therapist or occupational therapy assistant and licensees who offer or practice occupational therapy in the State of New Jersey.
- c) This chapter shall not apply to those individuals exempt from the licensure requirements of the Act pursuant to N.J.S.A. 45:9-37.60, except as provided in N.J.A.C. 13:44K-1.3.

13:44K-1.2 DEFINITIONS

The following words and terms, as used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Act" means the Occupational Therapy Licensing Act codified at N.J.S.A. 45:9-37.51 et. seq.

"Client" means a person, group of persons or a system, that receives professional services rendered by a licensed occupational therapist, a licensed occupational therapy assistant or a temporary licensed occupational therapist or assistant in medical, health, educational, vocational or social settings.

"Consultative services" means the provision of expert or professional advice to a client or other interested party with regard to therapeutic activities or approaches which may be utilized in order to improve the occupational performance of a client.

"Council" means the Occupational Therapy Advisory Council established pursuant to N.J.S.A. 45:9-37.54.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Direct services" means occupational therapy techniques that are individually designed and that are provided by an occupational therapist, an occupational therapy assistant or a temporary licensed occupational therapist or assistant to a client in order to improve the occupational performance of the client.

"Indirect services" means occupational therapy techniques that are individually designed, but which do not require direct interaction with the client, for the purpose of directing or advising others in therapeutic activities or approaches which may be used in order to improve the occupational performance of the client.

"Licensee" means any individual holding a license to provide occupational therapy services in the State of New Jersey.

"Occupational performance" means the performance of life skills, roles and functions, including work, recreation and leisure skills and the activities of daily living that are affected by sensory, motor, perceptual, cognitive and/or psycho-social abilities.

"Occupational therapist" means a person licensed to practice occupational therapy pursuant to the provisions of the Act and this chapter.

"Occupational therapy" means the evaluation, planning and implementation of a program of purposeful activities to develop or maintain functional skills necessary to achieve the maximum physical and/or mental functioning of the client for optimum occupational performance.

"Occupational therapy assistant" means a person licensed pursuant to the provisions of the Act and this chapter to assist in the practice of occupational therapy under the supervision of an occupational therapist on a regularly scheduled basis for the purpose of planning, review or evaluation of occupational therapy services.

"Occupational therapy services" means the use of specific techniques which enhance the functional performance of a client, including the evaluation and assessment of a client's self-care, lifestyle performance patterns, work skills, performance related cognitive, sensory, motor, perceptual, affective, interpersonal and social functioning, vocational and prevocational capacities. Occupational therapy services also includes the design, fabrication and application of adaptive equipment or prosthetic or orthotic devices, excluding dental devices, the utilization of

physical agent modalities, the administration of standardized and non-standardized assessments and consultation, including recommendations for the adaptation of physical environments.

"Program" means a procedure for solving a problem, including the collection of data, the processing and presentation of test results and the recommended use of purposeful activities, in order to achieve optimal occupational performance.

"Purposeful activities" means acts and occupations of craftsmanship and workmanship, as well as creative, educational, or other activities, which in whole or in part are used to correct, compensate for or prevent dysfunction in the tasks and activities of everyday living, and which simultaneously incorporate personally and culturally relevant biological, psychological and social elements that produce positive adaptation and motivational behavior.

"Short term goals" means occupational therapy goals established for no longer than one year.

"Supervision" means the responsible and direct involvement of a licensed occupational therapist with an occupational therapy assistant, a temporary licensed occupational therapist, a temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required fieldwork component of his or her educational training, for the development of an occupational therapy treatment plan and the periodic review of the implementation of that plan. Such supervision shall be close, routine or general, consistent with the following:

1. "Close supervision" means daily, face-to-face contact with and frequent observation of the performance of the individual at the location where he or she is rendering services;
2. "Routine supervision" means face-to-face contact with and observation of the performance of the individual at least once a week at the location where he or she is rendering services; and
3. "General supervision" means face-to-face contact with and observation of the performance of the individual at least once every two weeks at the location where he or she is rendering services.

"Task oriented activities" means purposeful activities having an explicit, observable and measurable short-term goal which contributes to the well-being of clients.

13:44K-1.3 OCCUPATIONAL THERAPY SERVICES PERFORMED FOR 60 DAYS WITHOUT A LICENSE

- a) For purposes of this section, the term "in association with" means an employment relationship, independent contractor relationship, consultant relationship, or other agreement between a New Jersey licensed occupational therapist and an occupational therapist or occupational therapy assistant licensed in another state, whereby the New Jersey licensed occupational therapist agrees to assume the responsibilities set forth in this section.
- b) An occupational therapist or occupational therapy assistant licensed in another state with regulatory requirements that are substantially equivalent to the requirements in New Jersey shall be permitted to engage in the practice of occupational therapy in this State, in association with a New Jersey licensed occupational therapist who satisfies the requirements of (c) below, for up to 60 days in a calendar year without obtaining a license, pursuant to N.J.S.A. 45:9-37.60(e), consistent with the requirements of this section.
- c) The New Jersey licensed occupational therapist with whom an occupational therapist or occupational therapy assistant licensed in another state seeks to work in association with pursuant to (b) above shall:
 - 1) Have a license in New Jersey that is active and in good standing, other than a temporary license;
 - 2) Obtain confirmation from the Council that the state in which the occupational therapist or occupational therapy assistant is licensed has regulatory requirements that are substantially equivalent to the requirements in New Jersey;
 - 3) Submit written notification to the Council of the occupational therapist or occupational therapy assistant's decision to work in New Jersey pursuant to this section, within seven business days of the commencement of work in New Jersey. The written notification shall include the occupational therapist or occupational therapy assistant's name, address, states of licensure, out-of-State license numbers and the address in New Jersey where he or she will be providing occupational therapy services. The written notification shall also include a statement that the New Jersey licensee has verified with the licensing authority in each state in which the occupational therapist or occupational therapy assistant is licensed that:
 - i) The licensee is in good standing; and
 - ii) The occupational therapist or occupational therapy assistant has not been convicted of a crime and does not have any criminal charges pending;

- 4) Provide a copy of the Occupational Therapy Licensing Act, N.J.S.A. 45:9-37.51 et seq., and the rules of this chapter to the occupational therapist or occupational therapy assistant prior to the commencement of work in New Jersey and shall ensure that the occupational therapist or occupational therapy assistant complies with all requirements set forth in the Act and in this chapter; and
 - 5) Submit written notification to the Council whenever the association between the licensee and the occupational therapist or occupational therapy assistant is completed or is terminated. Such notification shall be submitted within seven business days of the completion or termination of the association.
- d) Failure on the part of an occupational therapist or occupational therapy assistant licensed in another state to comply with the requirements of N.J.S.A. 45:9-37.60(e) or this section while providing occupational therapy services in New Jersey shall be deemed a violation of the Occupational Therapy Licensing Act, N.J.S.A. 45:9-37.60(e), and this section. The Council shall give notice of such violation to the licensing authority in the state in which the occupational therapist or occupational therapy assistant is licensed. Such violation may be considered by the Council in evaluating any application by the occupational therapist or occupational therapy assistant for occupational therapy licensure in New Jersey.
- e) The New Jersey licensed occupational therapist with whom an occupational therapist or occupational therapy assistant licensed in another state seeks to work in association shall comply with the requirements set forth in (c) above in each calendar year that such association takes place.
- f) The New Jersey licensed occupational therapist who works in association with an occupational therapist or occupational therapy assistant licensed in another state shall maintain all documentation regarding such associations for a period of five years from the date of termination of each association.
- g) A New Jersey licensed occupational therapist who fails to comply with the requirements of this section shall be deemed to have engaged in professional misconduct.

SUBCHAPTER 2. OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS: ELIGIBILITY REQUIREMENTS

13:44K-2.1 ELIGIBILITY REQUIREMENTS; OCCUPATIONAL THERAPIST; OCCUPATIONAL THERAPY ASSISTANT

a) To be eligible for licensure as an occupational therapist, an applicant shall:

- 1) Be at least 18 years of age;
- 2) Be of good moral character;
- 3) Have successfully completed:
 - i) A bachelor's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor; or
 - ii) A bachelor's degree or its equivalent in any field other than occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor and have fulfilled the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency;
- 4) Have successfully completed at least 24 weeks of supervised fieldwork experience approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a) 3i and ii above; and
- 5) Have successfully completed the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors.

b) To be eligible for licensure as an occupational therapy assistant, an applicant shall:

- 1) Be at least 18 years of age;
- 2) Be of good moral character;

- 3) Have successfully completed:
 - i) An associate's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor; or
 - ii) An associate's degree or its equivalent in any field other than occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor and have fulfilled the academic requirements of an educational program for occupational therapy assistant accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency;
- 4) Have successfully completed at least 12 weeks of supervised fieldwork experience approved by the educational institution at which the applicant completed the occupational therapy education program as evidenced in accordance with (b)3i and ii above; and
- 5) Have successfully completed the certification examination administered by the National Board for Certification in Occupational Therapy (NBCOT), or its predecessors.

SUBCHAPTER 3.

OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS: LICENSING PROCEDURE

13:44K-3.1 LICENSING PROCEDURE: OCCUPATIONAL THERAPIST

- a) An applicant for licensure as an occupational therapist shall submit the following to the Council:
 - 1) A completed application form, which contains the following:
 - i) Documentation of the applicant's education, including official transcripts, which indicate that the applicant received a bachelor's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor, which shall be forwarded to the Council directly by the college or university. If the applicant has completed all academic and administrative requirements necessary for the degree, but has not had the degree conferred by the university or college, the applicant may apply for a temporary license pursuant to N.J.A.C. 13:44K-4.1(b);

- ii) If the applicant has received a bachelor's degree or its equivalent in any field other than occupational therapy, documentation of the applicant's education, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may apply for a temporary license pursuant to N.J.A.C. 13:44K-4.1(b);
 - iii) Documentation that the applicant has successfully completed at least 24 weeks of supervised field-work experience, with a minimum of 720 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a)1i or ii above, which shall be submitted to the Council directly by the educational institution. The applicant shall have completed the 24 weeks of supervised fieldwork experience within 24 months of completing the academic requirements of the educational institution;
 - iv) For applicants who have taken the certification examination prior to January 1, 2003, a "Verification of Certification" letter from the National Board for Certification in Occupational Therapy (NBCOT) indicating that the candidate has successfully completed the certification examination for occupational therapists;
 - v) For applicants who have taken the certification examination on or after January 1, 2003, a score transfer from NBCOT indicating that the candidate has successfully completed the certification examination for occupational therapists;
 - vi) Two completed "Certificates of Good Moral Character";
 - vii) A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapist which shall be forwarded to the Council directly by the state in which the license is or was held; and
 - viii) A certified verification of name change, if applicable;
- 2) The application fee set forth in N.J.A.C. 13:44K-11.1;

- 3) A two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and
- 4) The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to N.J.S.A. 45:1-28 et seq., to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.

13:44K-3.2 LICENSING PROCEDURE: OCCUPATIONAL THERAPY ASSISTANT

- a) An applicant for licensure as an occupational therapy assistant shall submit the following to the Council:
 - 1) A completed application form, which contains the following:
 - i) Documentation of the applicant's education, including official transcripts, which indicate that the applicant received an associate's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor, which shall be forwarded to the Council directly by the college or university. If the applicant has completed all academic and administrative requirements necessary for the degree, but has not had the degree conferred by the university or college, the applicant may apply for a temporary license pursuant to N.J.A.C. 13:44K-4.1(b);
 - ii) If the applicant has received an associate's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program for occupational therapy assistants accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may apply for a temporary license pursuant to N.J.A.C. 13:44K-4.1(b);
 - iii) Documentation that applicant has successfully completed at least 12 weeks of supervised fieldwork experience, with a minimum of 360 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (a)1ii above, which shall be forwarded to the Council directly by the educational institution. The applicant shall have completed the

- 12 weeks of supervised fieldwork experience within 12 months of completing the academic requirements of the educational institution;
- iv) For applicants who have taken the certification examination prior to January 1, 2003, a "Verification of Certification" letter from the National Board for Certification in Occupational Therapy (NBCOT) indicating that the applicant has successfully completed the certification examination for occupational therapy assistants;
 - v) For applicants who have taken the certification examination on or after January 1, 2003, a score transfer from NBCOT indicating that the candidate has successfully completed the certification examination for occupational therapy assistants;
 - vi) Two completed "Certificates of Good Moral Character";
 - vii) A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapy assistance, which shall be forwarded to the Council directly by the state in which the license is or was held; and
 - viii) A certified verification of name change, if applicable;
- 2) The application fee set forth in N.J.A.C. 13:44K-11.1;
 - 3) One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and
 - 4) The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to N.J.S.A. 45:1-28 et seq., to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.

SUBCHAPTER 4. TEMPORARY LICENSES

13:44K-4.1 TEMPORARY LICENSE

- a) A temporary license shall be available to an applicant for examination as an occupational therapist or occupational therapy assistant with his or her initial application for examination.

The holder of a temporary license may practice only under the direct supervision of a licensed occupational therapist.

- b) A temporary license shall be available to an applicant for licensure as an occupational therapist or an occupational therapy assistant who has completed all academic and administrative requirements for a degree or certificate in occupational therapy but has not had the degree or certificate conferred by the university or college, provided that the applicant satisfies the requirements of (c) or (d) below.
- c) An applicant for temporary licensure as an occupational therapist shall submit the following to the Council:
 - 1) A completed application form, which contains the following:
 - i) Documentation of the applicant's education, including official transcripts, which indicate that the applicant received a bachelor's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor, which shall be forwarded to the Council directly by the college or university. If the applicant has completed all academic and administrative requirements necessary for the degree, but has not had the degree conferred by the university or college, the applicant may submit a letter from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements for the academic degree have been completed;
 - ii) If the applicant has received a bachelor's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may submit a letter from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements of the educational program have been completed;
 - iii) Documentation that the applicant has successfully completed at least 24 weeks of supervised field-work experience, with a minimum of 720 hours, approved by the educational institution at which the applicant completed the occupational therapy

- education program in accordance with (b)1i or ii above, which shall be submitted to the Council directly by the educational institution. The applicant shall have completed the 24 weeks of supervised fieldwork experience within 24 months of completing the academic requirements of the educational institution;
- iv) A "Confirmation of Examination Registration and Eligibility to Examine Notice," sent to the Council directly by the National Board for Certification in Occupational Therapy (NBCOT) indicating that the applicant is eligible to sit for his or her initial examination for licensure;
 - v) Two completed "Certificates of Good Moral Character";
 - vi) A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapist, which shall be forwarded to the Council by the state in which the license is or was held; and
 - vii) A certified verification of name change, if applicable;
- 2) The application fee set forth in N.J.A.C. 13:44K-11.1;
 - 3) One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and
 - 4) The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to N.J.S.A. 45:1-28 et seq., to determine whether criminal history record information exists, which may be considered by the Council in determining whether the applicant shall be licensed in the State.
- d) An applicant for temporary licensure as an occupational therapy assistant shall submit the following to the Council:
- 1) A completed application form, which contains the following:
 - i) Documentation of the applicant's education, including official transcripts, which indicate that the applicant received an associate's degree or its equivalent in occupational therapy from an accredited college or university approved by the Commission on Higher Education or its successor, which shall be forwarded to the Council directly by the college or university. If the applicant has completed all academic and administrative requirements necessary for the degree, but has not had the degree conferred by the university or college, the applicant may submit a letter

- from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements of the educational program have been completed;
- ii) If the applicant has received an associate's degree or its equivalent in any field other than occupational therapy, documentation, including official transcripts, which indicate that the applicant has completed the academic requirements of an educational program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education of the American Occupational Therapy Association, the World Federation of Occupational Therapy or other nationally recognized programmatic accrediting agency, which shall be forwarded to the Council directly by the educational program. If the applicant has completed all academic and administrative requirements necessary for completion of an educational program in occupational therapy, but has not had the program certificate conferred by the educational institution, the applicant may submit a letter from the director of the occupational therapy program, until the official transcript becomes available, verifying that all requirements of the educational program have been completed;
 - iii) Documentation that the applicant has successfully completed at least 12 weeks of supervised field-work experience, with a minimum of 360 hours, approved by the educational institution at which the applicant completed the occupational therapy education program in accordance with (c)1ii above, which shall be forwarded to the Council directly by the educational institution. The applicant shall have completed the 12 weeks of supervised fieldwork experience within 12 months of completing the academic requirements of the educational institution;
 - iv) A "Confirmation of Examination Registration and Eligibility to Examine Notice," sent to the Council directly by the National Board for Certification in Occupational Therapy (NBCOT) indicating that the candidate is eligible to sit for his or her initial examination for licensure;
 - v) Two completed "Certificates of Good Moral Character";
 - vi) A "Verification of State License" form from any state in which the applicant is now or has ever been licensed to practice as an occupational therapist, which shall be forwarded to the Council by the state in which the license is or was held; and
 - vii) A certified verification of name change, if applicable;
- 2) The application fee set forth in N.J.A.C. 13:44K-11.1;

- 3) One two inch by two inch, recent head and shoulder photo of the applicant, certified by a Notary Public, and signed by the applicant; and
- 4) The applicant's name, address and fingerprints for purposes of a criminal history background check to be conducted by the State of New Jersey pursuant to N.J.S.A. 45:1-28 et seq., to determine whether criminal history record information exists, which shall be considered by the Council in determining whether the applicant shall be licensed in the State.

13:44K-4.2 EXPIRATION OF TEMPORARY LICENSE; RENEWAL OF TEMPORARY LICENSE

- a) A temporary license holder shall take the licensure examination within 90 days of the date of issuance of his or her temporary license. Failure to take the examination within 90 days shall constitute a failure of the examination and the temporary license shall automatically expire. A temporary license holder may, however, apply to the Council for renewal of the temporary license as provided in (c) below. A temporary license holder shall take the licensure examination within 180 days of the date of issuance of the renewal.
- b) A temporary license shall expire automatically upon the temporary license holder being notified of failure of the licensure examination. Upon notification of failure of the initial examination, a temporary license holder may apply to the Council for renewal of the temporary license as provided in (c) below.
- c) A temporary license shall be renewable one time only. A temporary license holder seeking renewal of a temporary license shall submit a written request for renewal to the Council, within 10 business days of the expiration of the temporary license, certifying that he or she has requested a "Confirmation of Examination Registration and Eligibility to Examine Notice" from the National Board for Certification in Occupational Therapy (NBCOT), which shall be sent directly to the Council from NBCOT. The temporary license holder shall also submit the renewal fee set forth in N.J.A.C. 13:44K-11.1.
- d) A temporary license, which has been renewed pursuant to (c) above shall automatically expire upon notification to the temporary license holder from NBCOT that he or she has failed the licensure examination for the second time or upon the temporary license holder's failure to take the licensure examination for the second time within 180 days of the date of issuance of the renewal. The temporary license holder shall immediately cease practice and surrender the temporary license to the Council upon such notification or upon expiration of the 180 days. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.

- e) A temporary license shall expire within 180 days of the temporary license holder's receipt of notification from NBCOT that he or she has passed the licensure examination. The temporary license holder shall cease practicing under the temporary license no later than 180 days after receiving the NBCOT notification. The temporary license holder shall submit all documentation required for licensure as provided in N.J.A.C. 13:44K-2.1, and shall surrender the temporary license to the Council within 180 days of NBCOT notification. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.
- f) A temporary license issued pursuant to N.J.A.C. 13:44K-4.1(b) to an applicant for licensure who has completed the academic and administrative requirements necessary for an occupational therapy degree or certificate, but who has not had the degree or certificate conferred, shall be valid for 180 days from the date of issuance. The temporary license holder shall cease practicing under the temporary license no later than 180 days after the date the license is issued. The temporary license holder shall submit an official transcript of his or her education to complete his or her licensure application, as provided in N.J.A.C. 13:44K-2.1, and shall surrender the temporary license to the Council within 180 days of the date of issuance. Failure to cease practicing shall be deemed professional misconduct and the unlicensed practice of occupational therapy and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.

SUBCHAPTER 5. SCOPE OF PRACTICE

13:44K-5.1 SCOPE OF PRACTICE OF A LICENSED OCCUPATIONAL THERAPIST

- a) The scope of practice of a licensed occupational therapist shall include:
 - 1) The provision of direct, indirect and/or consultative services to a client affected by physical, psycho-social, cognitive, congenital and/or developmental disorders or the aging process, to improve and/or prevent loss of physical or mental functioning and to promote wellness;
 - 2) The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to identify areas of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills, which are affected by sensory, motor, developmental, perceptual, cognitive and/ or psycho-social abilities;
 - 3) The interpretation of the results of the assessment process described in (a)2 above, to determine the need for an intervention plan for the client. Such a plan shall be developed

and administered by the occupational therapist in collaboration with the client, the client's family and related medical, health, educational or social agencies or professionals;

- 4) The development and utilization of, and education and training in, purposeful, task-oriented activities for the client to improve, restore and/or maintain optimal performance of life skills, roles and functions including work, recreation, leisure skills and activities of daily living;
- 5) The design, fabrication, application and/or selection of adaptive equipment, prosthetics and/or orthotic devices, except dental devices;
- 6) Consultation concerning the adaptation of physical environments; and
- 7) The utilization of physical agent modalities, consistent with N.J.A.C. 13:44K-5.4, as an adjunct to, or in preparation for, purposeful activities to enhance occupational performance with which the licensee is familiar as a result of training and experience.

13:44K-5.2 SCOPE OF PRACTICE OF A LICENSED OCCUPATIONAL THERAPY ASSISTANT

- a) The scope of practice of a licensed occupational therapy assistant, working under the supervision of a licensed occupational therapist as provided in N.J.A.C. 13:44K-6.1, shall include:
 - 1) The provision of direct, indirect and/or consultative services to a client affected by physical, psycho-social, cognitive, congenital and/or developmental disorders or the aging process, to improve and/or prevent loss of physical or mental functioning and to promote wellness;
 - 2) The administration of standardized and/or non-standardized assessments and/or the observation of a client and the environment to assist in the identification of functional abilities or deficits. Areas, which may be assessed shall include the performance of activities of daily living, including recreation, leisure or work related skills which are affected by sensory, motor, developmental, perceptual, cognitive and/or psycho-social abilities;
 - 3) Assisting in the development and implementation of an intervention plan for the client;
 - 4) The development and utilization of, and education and training in, purposeful, task-oriented activities for the client to improve, restore and/or maintain optimal performance of life skills, roles and functions including work, recreation, leisure skills and the activities of daily living;

- 5) The design, fabrication, application and/or selection of adaptive equipment, prosthetics and/or orthotic devices, except dental devices;
- 6) Consultation concerning the adaptation of physical environments; and
- 7) The utilization of physical agent modalities, consistent with N.J.A.C. 13:44K-5.4, as an adjunct to, or in preparation for, purposeful activity to enhance occupational performance with which the licensee is familiar as a result of training and experience.

13:44K-5.3 DELEGATION OF OCCUPATIONAL THERAPY SERVICES

- a) A licensed occupational therapist may delegate selected occupational therapy services to licensed occupational therapy assistants, temporary licensed occupational therapists, temporary licensed occupational therapy assistants and to occupational therapy students fulfilling the required fieldwork component of their educational training, provided the services are within the scope of practice of the individual to whom they are delegated.
- b) In delegating selected occupational therapy services, the licensed occupational therapist shall be responsible for exercising that degree of judgment and knowledge reasonably expected to assure that a proper delegation has been made. A licensed occupational therapist shall not delegate the performance of an occupational therapy service to persons who have not been adequately prepared by verified training and education. No task may be delegated which is within the scope of practice of the occupational therapist and requires:
 - 1) The substantial knowledge and skill derived from completion of an occupational therapy education program and the specialized skill, judgment and knowledge of a licensed occupational therapist; and
 - 2) An understanding of occupational therapy principles necessary to recognize and manage complications which may result in harm to the health and safety of the client.
- c) The licensed occupational therapist shall be responsible for the proper supervision of persons to whom delegation of occupational therapy services is made. Such supervision shall be close, routine or general supervision. The degree of supervision exercised over such persons shall be determined by the licensed occupational therapist consistent with the requirements set forth in N.J.A.C. 13:44K-6.2 and based on an evaluation of:
 - 1) The condition of the client;
 - 2) The education, skill and training of the person to whom delegation is being made; and

- 3) The nature of the tasks and the activities being delegated.
- d) When occupational therapy services are delegated pursuant to the provisions of (a), (b) and (c) above, the supervising occupational therapist shall retain responsibility for all occupational therapy care of the client.

13:44K-5.4 USE OF PHYSICAL AGENT MODALITIES BY A LICENSED OCCUPATIONAL THERAPIST; DELEGATION TO LICENSED OCCUPATIONAL THERAPY ASSISTANT

- a) A licensed occupational therapist may use physical agent modalities as set forth in this section for the purpose of enhancing the functional performance of a client. For purposes of this section, "physical agent modalities" shall mean those modalities that produce a biophysical response through the use of light, water, temperature, sound, electricity or mechanical devices.
- b) A licensed occupational therapist may use superficial thermal agents, such as hydrotherapy/whirlpool, cryotherapy (cold packs, ice), fluidotherapy, hot packs, paraffin, water, infrared light and other commercially available heating and cooling technologies and mechanical devices, such as vaso-pneumatic and continuous passive motion devices.
- c) A licensed occupational therapist shall demonstrate competency, as provided in (e) or (f) below, prior to using any of the following advanced physical agent modalities: diathermy; high-voltage galvanic stimulation; micro current stimulation; transcutaneous electrical nerve stimulation; neuromuscular electrical stimulation; iontophoresis; therapeutic ultrasound; phonophoresis; and cold lasers.
- d) A provider of a training course in the use of advanced physical agent modalities may obtain Council approval of the course upon submission of documentation verifying that the course satisfies the requirements set forth in (e) below. Council approval for a training course shall be valid for one year. Resubmission of course documentation shall be required for renewal of course approval and whenever a provider changes the course content of an approved training course.
- e) A licensed occupational therapist may use advanced physical agent modalities if he or she has completed a Council-approved training course, which meets the following requirements:
 - 1) The training course shall include at least 30 hours of didactic instruction. For purposes of this subsection, "didactic instruction" means live, in-person instruction and may include interactive telephonic or electronic instruction, but shall not include videotaped or audiotaped instruction. The training course shall include:

- i) Four hours of training in the use of heat wave physical agent modalities;
 - ii) Sixteen hours of training in the use of electric wave physical agent modalities;
 - iii) Six hours of training in the use of sound wave physical agent modalities; and
 - iv) Four hours of training in the use of light wave physical agent modalities;
- 2) The training course shall include instruction in the following:
- i) Principles of physics related to specific properties of light, water, temperature, sound or electricity, as indicated by each modality;
 - ii) Physiological, neurophysiological and electrophysiological changes, as indicated, which occur as a result of the application of each modality;
 - iii) The response of normal and abnormal tissue to the application of each modality;
 - iv) Indications or contraindications related to the selection and application of each modality;
 - v) Guidelines for educating clients, including instructing about the process and possible outcomes of treatment, including risks and benefits;
 - vi) Safety rules and precautions related to each modality;
 - vii) Methods of documenting the effectiveness of the immediate and long-term effects of treatment;
 - viii) Characteristics of the equipment, including safe operation, adjustment and care of the equipment; and
 - ix) Hands-on application of each modality by each course participant. Such instruction shall be provided in-person. Interactive telephonic or electronic instruction in the application of modalities shall not be permitted; and
- 3) The primary instructor of the course shall be a licensed occupational therapist, a licensed physical therapist, a licensed physical therapist assistant or a licensed physician.

- f) A licensed occupational therapist may use advanced physical agent modalities if he or she holds a current certification from the Hand Therapy Certification Commission or any other national organization that utilizes substantially similar certification standards.
- g) A licensed occupational therapist shall retain documentation relating to his or her training in the use of advanced physical agent modalities pursuant to (e) or (f) above and shall make such documentation available to the Council upon request. The documentation shall include, if applicable:
 - 1) The name and address of the person or organization presenting the program, workshop or seminar;
 - 2) The name and address of the facility where the program, workshop or seminar was presented;
 - 3) A copy of the program, workshop or seminar syllabus, which includes a detailed description of the learning objectives and teaching methods employed in the course and the qualifications of the instructor(s); and
 - 4) A certificate of completion from the program, workshop or seminar sponsor.
- h) A licensed occupational therapist may apply to the Council for approval of a course in the use of advanced physical agent modalities that has not been pre-approved by the Council. The licensee shall submit the documentation set forth in (g) above to the Council for review.
- i) A licensed occupational therapist may delegate the application of the superficial thermal agent and mechanical device modalities set forth in (b) above to a licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-5.3. Delegation of the application of such modalities to anyone other than a licensed occupational therapy assistant shall be deemed professional misconduct and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.
- j) A licensed occupational therapist may delegate the application of the advanced physical agent modalities set forth in (c) above to a licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-5.5. Delegation of advanced physical agent modalities to anyone other than a licensed occupational therapy assistant who has satisfied the requirements of N.J.A.C. 13:44K-5.5 shall be deemed professional misconduct and may subject a licensee to the penalties set forth in N.J.S.A. 45:1-21 et seq.
- k) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above without having satisfied the requirements set forth in (e) or (f) above shall be

deemed to have engaged in professional misconduct and may be subject to the penalties set forth in N.J.S.A. 45:1-21 et seq.

- l) A licensed occupational therapist who uses the advanced physical agent modalities set forth in (c) above shall submit documentation verifying that he or she has obtained training in the use of advance physical agent modalities that is substantially similar to the requirements set forth in (e) above on or before May 4, 2010. After May 4, 2010, a licensed occupational therapist shall meet the requirements set forth in (e) or (f) above in order to use advanced physical agent modalities.
- m) Notwithstanding the fact that a licensed occupational therapist is permitted to use advanced physical agent modalities because he or she has satisfied the training requirements of this section, a licensed occupational therapist shall not use a specific physical agent modality device that he or she has not been trained to use until he or she is familiar with the device's proper use and contraindications. Failure to comply with this section shall be deemed professional misconduct and may subject a licensed occupational therapist to the penalties set forth in N.J.S.A. 45:1-21 et seq.

13:44K-5.5 USE OF PHYSICAL AGENT MODALITIES BY A LICENSED OCCUPATIONAL THERAPY ASSISTANT; SUPERVISOR RESPONSIBILITIES

- a) A licensed occupational therapy assistant may use the superficial thermal agent and mechanical device modalities set forth in N.J.A.C. 13:44K-5.4(b) under the supervision of a licensed occupational therapist consistent with the requirements of N.J.A.C. 13:44K-5.4.
- b) A licensed occupational therapy assistant may use the advanced physical agent modalities set forth in N.J.A.C. 13:44K-5.4(c) under the supervision of a licensed occupational therapist consistent with the requirements of this section.
- c) Prior to using advanced physical agent modalities, a licensed occupational therapy assistant shall have completed a training course that meets the requirements set forth in N.J.A.C. 13:44K-5.4(e).
- d) A licensed occupational therapy assistant shall use advanced physical agent modalities only under the supervision of a licensed occupational therapist who has:
 - 1) Met the experience requirements of N.J.A.C. 13:44K-6.2(g); and
 - 2) Completed a training course that meets the requirements of N.J.A.C. 13:44K-5.4(e) or who holds a current certification from the Hand Therapy Certification Commission or any other national organization that utilizes substantially similar certification standards consistent with the requirements of N.J.A.C. 13:44K-5.4(f).

- e) A licensed occupational therapist shall supervise the use of advanced physical agent modalities by a licensed occupational therapy assistant consistent with the following:
 - 1) The supervising occupational therapist shall provide close supervision, as defined in N.J.A.C. 13:44K-1.2, of the licensed occupational therapy assistant, during which time the occupational therapist shall directly observe the occupational therapy assistant's application of each type of modality in a patient treatment setting no fewer than five times. Documentation of such supervision shall be maintained by the supervising occupational therapist consistent with the requirements of N.J.A.C. 13:44K-6.2(h) and by the licensed occupational therapy assistant consistent with the requirements of N.J.A.C. 13:44K-6.3(c);
 - 2) Following the five instances of direct observation of the licensed occupational therapy assistant's application of a particular type of modality, the supervising occupational therapist shall determine the level of supervision required of the occupational therapy assistant, consistent with the requirements of N.J.A.C. 13:44K-6.2(e).
 - i) Notwithstanding (e)2 above, the occupational therapist shall continue to provide close supervision for any occupational therapy assistant who has been engaged in the practice of occupational therapy for less than one year on a full-time basis, consistent with the requirements of N.J.A.C. 13:44K-6.2(e); and
 - 3) The supervising occupational therapist shall satisfy all supervisor responsibilities set forth in N.J.A.C. 13:44K-6.2.
- f) A supervising occupational therapist shall not delegate the close supervision of an occupational therapy assistant's use of advanced physical agent modalities, including the direct observation of the occupational therapy assistant's application of the modalities, to anyone other than a licensed occupational therapist who has met the requirements of (d) and (e) above.
- g) A licensed occupational therapy assistant shall retain documentation relating to his or her completion of the training course and shall make such documentation available to the Council upon request. The documentation shall include, if applicable:
 - 1) The name and address of the person or organization presenting the course;
 - 2) The name and address of the facility where the course was presented;

- 3) A copy of the course syllabus, which includes a detailed description of the learning objectives and teaching methods employed in the course and the qualifications of the instructor(s); and
 - 4) A certificate of completion from the course sponsor.
- h) A licensed occupational therapy assistant may apply to the Council for approval of a course in the use of advanced physical agent modalities that has not been pre-approved by the Council. The licensee shall submit the documentation set forth in (g) above to the Council for review.
- i) A licensed occupational therapy assistant who uses advanced physical agent modalities without having satisfied the requirements of this section shall be deemed to have engaged in professional misconduct and may be subject to the penalties set forth in N.J.S.A. 45:1-21 et seq.
- j) Notwithstanding the fact that a licensed occupational therapy assistant is permitted to use advanced physical agent modalities because he or she has satisfied the training requirements of this section, a licensed occupational therapy assistant shall not use a specific advanced physical agent modality that he or she has not been trained to use until he or she is familiar with the device's proper use and contraindications, and until he or she has been directly observed under close supervision by a supervising occupational therapist in the application of the modality at least five times in a patient treatment setting. Following such direct observation, the licensed occupational therapy assistant may use the modality under the supervision of a licensed occupational therapist consistent with the requirements of (e)2 above. Failure to comply with this section shall be deemed professional misconduct and may subject a licensed occupational therapy assistant to the penalties set forth in N.J.S.A. 45:1-21 et seq.

SUBCHAPTER 6.

SUPERVISION OF OCCUPATIONAL THERAPY ASSISTANTS

13:44K-6.1 SUPERVISION REQUIREMENT: OCCUPATIONAL THERAPY ASSISTANT

- a) A licensed occupational therapy assistant shall provide occupational therapy services only under the supervision of a licensed occupational therapist pursuant to the provisions of this subchapter.
- b) The supervising occupational therapist shall retain responsibility for the occupational therapy care of the client being treated by the occupational therapy assistant.

- c) In the event of a change of the supervising occupational therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any occupational therapy assistant(s) providing care to a client and shall become the designated supervisor.

13:44K-6.2 RESPONSIBILITIES OF DESIGNATED SUPERVISOR

- a) An occupational therapist shall not supervise more than five licensees, including occupational therapy assistants, temporary licensed occupational therapists or temporary licensed occupational therapy assistants.
- b) An occupational therapist may supervise five occupational therapy students who are fulfilling the required fieldwork component of their educational training.
- c) Notwithstanding the provisions of (a) and (b) above, a licensed occupational therapist shall not supervise more than seven persons at one time.
- d) A designated supervisor shall be responsible for the close, routine or general supervision of an occupational therapy assistant.
- e) A designated supervisor shall determine the level of supervision required of each occupational therapy assistant consistent with the condition of the client, the education, skill and training of the occupational therapy assistant and the nature of the tasks and activities to be performed by the occupational therapy assistant; provided, however, that a designated supervisor shall provide close supervision for any occupational therapy assistant who has been engaged in the practice of occupational therapy for less than one year on a full-time basis.
- f) When providing routine or general supervision of an occupational therapy assistant, a designated supervisor may also provide interim supervision of the occupational therapy assistant through telephonic or written communications, including reports and/or conferences, between the supervisor and the occupational therapy assistant.
- g) Notwithstanding the provisions of (a) through (d) above, prior to supervising any person engaged in the practice of occupational therapy services, an occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and in no more than three years of practice.
- h) A designated supervisor shall maintain a written plan of supervision which shall include evidence of the ongoing supervision of each occupational therapy assistant for whom the supervisor is responsible.

- i) A designated supervisor who is unavailable to provide occupational therapy assistants with either routine or general supervision as required in (d) through (f) above, for two or more contact periods, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.
- j) A designated supervisor who is unable to provide occupational therapy assistants with close supervision as required in (e) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-6.3 RESPONSIBILITIES OF AN OCCUPATIONAL THERAPY ASSISTANT

- a) An occupational therapy assistant shall not render nor continue to render client care unless he or she has obtained ongoing direction from his or her designated supervisor.
- b) An occupational therapy assistant shall be responsible for clients within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.2.
- c) An occupational therapy assistant shall maintain a record of supervision which shall include the name and license number of his or her designated supervisor, the date when the occupational therapy assistant received supervision and the type of supervision that was provided.

13:44K-6.4 DELEGATION OF SUPERVISION RESPONSIBILITIES

- a) A designated supervisor providing close supervision of an occupational therapy assistant, a temporary licensed occupational therapy assistant or an occupational therapy student, may delegate his or her supervisory responsibility for the daily, face-to-face contact with and frequent observation of the performance of the occupational therapy assistant, the temporary licensed occupational therapy assistant or the occupational therapy student, to an occupational therapy assistant who, in the professional judgment of the supervising occupational therapist, has been adequately prepared by verified training and education in the provision of occupational therapy services consistent with the requirements set forth at N.J.A.C. 13:44K-2.1.
- b) Notwithstanding the provisions of (a) above, no designated supervisor shall delegate his or her responsibilities for close supervision of an occupational therapy assistant to an occupational therapy assistant who has less than 3,600 hours of work experience obtained within a five year period in the particular practice area in which services are being provided.
- c) A licensed occupational therapy assistant who has been delegated supervision responsibilities pursuant to (a) and (b) above, shall not supervise more than three persons at one time.

- d) Notwithstanding the provisions of (a), (b) and (c) above, a licensed occupational therapist shall not supervise more than seven persons at one time, pursuant to the provisions of N.J.A.C. 13:44K-6.2.
- e) When supervision of an occupational therapy assistant, a temporary licensed occupational therapy assistant or an occupational therapy student is delegated pursuant to the provisions of (a), (b), (c) and (d) above, the supervising occupational therapist shall retain responsibility for all occupational therapy care of the client.

SUBCHAPTER 7. SUPERVISION OF TEMPORARY LICENSED OCCUPATIONAL THERAPIST AND TEMPORARY LICENSED OCCUPATIONAL THERAPY ASSISTANT

13:44K-7.1 SUPERVISION REQUIREMENT: TEMPORARY LICENSED OCCUPATIONAL THERAPIST AND TEMPORARY LICENSED OCCUPATIONAL THERAPY ASSISTANT

- a) A temporary licensed occupational therapist shall provide occupational therapy services only under the supervision of a licensed occupational therapist pursuant to the provisions of this subchapter.
- b) A temporary licensed occupational therapy assistant shall work only under the supervision of a licensed occupational therapist, or a licensed occupational therapy assistant who has been delegated supervisory responsibilities pursuant to N.J.A.C. 13:44K-6.4, pursuant to the provisions of this subchapter.
- c) The supervising occupational therapist shall be responsible for the occupational therapy care of the client being treated by a temporary licensed occupational therapist or a temporary licensed occupational therapy assistant.
- d) In the event of a change of the supervising occupational therapist, the subsequent supervisor shall assume responsibility for the ongoing supervision of any temporary licensed occupational therapist(s) or temporary licensed occupational therapy assistant(s) providing care to the client and shall become the designated supervisor.

13:44K-7.2 RESPONSIBILITIES OF DESIGNATED SUPERVISOR

- a) An occupational therapist shall not supervise more than five persons, including occupational therapy assistants, temporary licensed occupational therapists or temporary licensed occupational therapy assistants.

- b) A licensed occupational therapist may supervise five occupational therapy students who are fulfilling the required fieldwork component of their educational training.
- c) Notwithstanding the provisions of (a) and (b) above, a licensed occupational therapist shall not supervise more than seven persons at one time.
- d) Notwithstanding the provisions of (a) through (c) above, prior to supervising any person engaged in the practice of occupational therapy services, an occupational therapist shall have at least 1,200 hours of work experience obtained in no less than one year and in no more than three years of practice.
- e) A designated supervisor shall be responsible for the close supervision of a temporary licensed occupational therapist or temporary licensed occupational therapy assistant.
- f) A designated supervisor shall maintain a plan of supervision which shall include evidence of the ongoing supervision of each temporary licensee for whom the supervisor is responsible.
- g) A designated supervisor who is unavailable to provide licensees with supervision as required by (a) through (d) above, for more than one day, shall arrange for substitute supervision by a licensed occupational therapist, who shall follow the established plan of supervision.

13:44K-7.3 RESPONSIBILITIES OF A TEMPORARY LICENSED OCCUPATIONAL THERAPIST OR A TEMPORARY LICENSED OCCUPATIONAL THERAPY ASSISTANT

- a) A temporary licensed occupational therapist or a temporary licensed occupational therapy assistant shall not render nor continue to render care unless he or she has obtained ongoing direction from his or her designated supervisor.
- b) A temporary licensed occupational therapist shall be responsible for client care within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.1. A temporary licensed occupational therapy assistant shall be responsible for care within the limits of his or her scope of practice pursuant to N.J.A.C. 13:44K-5.2.
- c) A temporary licensed occupational therapist or a temporary licensed occupational therapy assistant shall maintain a record of supervision which shall include the name and license number of his or her designated supervisor, the date when the temporary licensee received supervision and the type of supervision that was provided.

SUBCHAPTER 8. GENERAL OBLIGATIONS OF LICENSEES

13:44K-8.1 NOTIFICATION OF CHANGE OF ADDRESS OF RECORD; SERVICE OF PROCESS

- a) A licensee shall notify the Council, within 30 days, of any change in his or her address of record. For purposes of this section, "address of record" means an address designated by a licensee, which is part of the public record and which may be disclosed upon request. "Address of record" may be a licensee's home, business or mailing address, but shall not be a post office box unless the licensee also provides another address, which includes a street, city, state and zip code.
- b) Service of an administrative complaint or other process initiated by the Attorney General, the Director or the Council at the address on file with the Council shall be deemed adequate notice for the commencement of an inquiry or disciplinary proceeding.
- c) A licensee shall, within 30 days of receiving a notice of disciplinary action taken against the licensee in another jurisdiction, report to the Council in writing his or her receipt of such notification.

13:44K-8.2 NOTIFICATION OF CHANGE OF NAME

- a) A licensee whose name has been legally changed shall forward to the Council by certified mail, return receipt requested, no later than 30 days following the change of name, the following:
 - 1) Legal evidence of such change; and
 - 2) A copy of the licensee's original license with proof that he or she is the same person to whom the Council issued the license.
- b) Upon receipt of the items set forth in (a) above and upon payment of the fees specified in N.J.A.C. 13:44K-11.1(a)12 and 13, the Council shall issue to the individual a new license.
- c) Upon receipt of the new license as set forth in (b) above, the licensee shall immediately remit the original license to the Council.

13:44K-8.3 UNLICENSED PRACTICE OF OCCUPATIONAL THERAPY

- a) The following acts or practices shall be deemed to be the unlicensed practice of occupational therapy:

- 1) Offering or rendering occupational therapy services by any person other than a licensed occupational therapist, a licensed occupational therapy assistant or a person who is exempt from licensure under the Occupational Therapy Licensing Act, pursuant to N.J.S.A. 45:9-37.60. Persons exempt from licensure pursuant to N.J.S.A. 45:9-37.60(e) shall only engage in the provision of occupational therapy services consistent with the provisions of N.J.A.C. 13:44K-1.3;
 - 2) The use by any person other than a licensed occupational therapist or a licensed occupational therapy assistant of:
 - i) Any title or designation which includes the words occupational therapist or occupational therapy assistant which may mislead the public; or
 - ii) The abbreviations O.T. or O.T.A., or any similar abbreviations.
- b) A licensee shall use only the title or designation corresponding to his or her license.

13:44K-8.4 AIDING AND ABETTING UNLICENSED PRACTICE

It shall be professional misconduct for a licensee to aid or assist any person engaging in conduct that violates N.J.A.C. 13:44K-8.3 and shall constitute a deviation from the normal standards of practice required of a licensee, which may subject the licensee to the penalties of N.J.S.A. 45:1-21.

13:44K-8.5 SEXUAL MISCONDUCT

- a) As used in this section, the following terms have the following meanings unless the context clearly indicates otherwise:

"Client" means any person who is the recipient of occupational therapy evaluation, instruction or treatment rendered by a licensee.

"Client-therapist relationship" means a relationship between an occupational therapist, occupational therapy assistant, or temporarily licensed occupational therapist or occupational therapy assistant, and the client wherein the licensee owes a continuing duty to the client to render occupational therapy services consistent with his or her training and experience.

"Licensee" means any person licensed to engage in practice as an occupational therapist, occupational therapy assistant or temporarily licensed occupational therapist or occupational therapy assistant in the State of New Jersey.

"Sexual contact" means the knowing touching of a person's body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee's own prurient interest or for sexual arousal or gratification. "Sexual contact" includes, but is not limited to, the imposition of a part of the licensee's body upon a part of the client's body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or client's body into or near the genital, anal or other opening of the other person's body. "Sexual contact" does not include the touching of a client's body which is necessary during the performance of a generally accepted and recognized occupational therapy procedure.

"Sexual harassment" means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee's activities or role as a provider of occupational therapy services, and that either: is unwelcome, is offensive to a reasonable person, or creates a hostile workplace environment, and the licensee knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. "Sexual harassment" may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee with a client, co-worker, employee, student or supervisee whether or not such individual is in a subordinate position to the licensee. "Sexual harassment" may also include conduct of a nonsexual nature if it is based on the sex of an individual.

"Spouse" means the husband, wife, civil union partner or fiancée of the licensee or an individual involved in a long-term committed relationship with the licensee. For purposes of the definition of "spouse," a long-term committed relationship means a relationship, which is at least six months in duration.

- b) A licensee shall not engage in sexual contact with a client with whom he or she has a client-therapist relationship. The client-therapist relationship is ongoing for purposes of this section, unless:
 - 1) Occupational therapy is terminated by way of written notice to the client and is documented in the client record; and
 - 2) The last occupational therapy was rendered more than six months ago.
- c) In circumstances where the client is, or should be recognized by the licensee as, clearly vulnerable by reason of emotional or cognitive disorder to exploitive influence by the licensee, the prohibition on sexual contact shall extend indefinitely.
- d) A licensee shall not seek or solicit sexual contact with a client with whom he or she has a client-therapist relationship and shall not seek or solicit sexual contact with any person in exchange for professional services.

- e) A licensee shall not engage in any discussion of an intimate sexual nature with a client, unless that discussion is directly related to a proper occupational therapy purpose. Such discussion shall not include disclosure by the licensee of his or her own sexual relationships.
- f) A licensee shall provide privacy and examination conditions which prevent the exposure of the unclothed body of the client. Appropriate draping measures shall be employed to protect client privacy.
- g) A licensee shall not engage in sexual harassment either within or outside of the professional setting.
- h) A licensee shall not engage in any other activity which would lead a reasonable person to believe that the activity serves the licensee's personal prurient interests or which is for the sexual arousal, or sexual gratification of the licensee or client or which constitutes an act of sexual abuse.
- i) Violation of any of the prohibitions or directives set forth in (c) through (h) above shall constitute professional misconduct pursuant to N.J.S.A. 45:1 -21(e).
- j) Nothing in this section shall be construed to prevent a licensee from rendering occupational therapy to a spouse, providing that the rendering of such occupational therapy is consistent with accepted standards of occupational therapy and that the performance of occupational therapy is not utilized to exploit the client spouse for the sexual arousal or sexual gratification of the licensee.
- k) It shall not be a defense to any action under this section that:
 - 1) The client solicited or consented to sexual contact with the licensee; or
 - 2) The licensee is in love with or held affection for the client.

13:44K-8.6 BIENNIAL LICENSE RENEWAL; INACTIVE STATUS; LICENSE SUSPENSION

- a) Licenses issued by the Council to occupational therapists and occupational therapy assistants shall be issued for a two-year biennial period. A licensee who seeks license renewal shall submit a renewal application and the renewal fee set forth in N.J.A.C. 13:44K-11.1 prior to the expiration date of the license.
- b) The Council shall send a notice of renewal to each licensee at the address of record with the Council at least 60 days prior to the expiration of the license. If the notice to renew is not

sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew during the period following licensure expiration, not to exceed the number of days short of 60 before the renewals were issued.

- c) License renewal applications shall provide licensees with the option of either active or inactive status. A licensee electing inactive status shall not engage in the provision of occupational therapy services in New Jersey during the period of inactive status.
- d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application and the renewal fee and late fee set forth in N.J.A.C. 13:44K-11.1. During this 30-day period, the license shall be valid, and the licensee shall not be deemed to be practicing without a license.
- e) A license that is not renewed within 30 days of its expiration shall be automatically suspended. An individual who continues to practice with a suspended license shall be deemed to be engaged in unlicensed practice.

13:44K-8.7 INACTIVE STATUS: CHANGE OF LICENSURE STATUS

- a) A licensee who has been inactive for a period of less than five years may, upon application to the Council, change from inactive to active status upon submission of the following:
 - 1) A completed renewal application;
 - 2) The renewal fee for the current biennial period set forth in N.J.A.C. 13:44K-11.1; and
 - 3) An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer.
- b) A licensee who has been inactive for a period of five years or more may, upon application to the Council, change from inactive to active status upon submission of the following:
 - 1) A completed renewal application;
 - 2) The renewal fee for the current biennial period set forth in N.J.A.C. 13:44K-11.1;
 - 3) An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer; and

- 4) Evidence that the licensee has maintained competency by either having completed course work in occupational therapy during the period of time he or she was inactive, or having been continuously and actively engaged in the licensed practice of occupational therapy in another jurisdiction. A licensee who fails to demonstrate that he or she has maintained competency while on inactive status may be subject to an examination or other requirements as determined by the Council prior to being permitted to return to active practice.

13:44K-8.8 REINSTATEMENT OF SUSPENDED LICENSE

- a) An individual whose license has been automatically suspended for less than five years for failure to renew pursuant to N.J.A.C. 13:44K-8.6 may be reinstated by the Council upon submission of the following:
 - 1) A completed reinstatement application;
 - 2) Payment of the reinstatement fee and the current biennial renewal fee set forth in N.J.A.C. 13:44K-11.1. If the applicant engaged in the practice of occupational therapy in New Jersey during the period of license suspension, the applicant shall also submit payment of all past delinquent biennial renewal fees;
 - 3) An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer;
 - 4) Any outstanding penalties imposed by the Council; and
 - 5) Evidence that the licensee has maintained competency by either having completed course work in occupational therapy during the period of time he or she was suspended or having been continuously and actively engaged in the licensed practice of occupational therapy in another jurisdiction. An applicant who fails to demonstrate that he or she has maintained competency during the period of license suspension may be subject to an examination or other requirements as determined by the Council prior to being permitted to return to practice.
- b) An individual whose license has been automatically suspended for five years or more for failure to renew pursuant to N.J.A.C. 13:44K-8.6 may be reinstated by the Council upon successful completion of the licensing examination required for initial licensure as set forth in N.J.A.C. 13:44K-3.1 or 3.2, as applicable, and upon submission of the following:
 - 1) A completed reinstatement application;

- 2) Payment of the reinstatement fee and appropriate biennial renewal fees;
- 3) An affidavit of employment listing each job held during the period the licensee was inactive, including the name, address and telephone number of each employer; and
- 4) Any outstanding penalties imposed by the Council.

13:44K-8.9 INSURANCE FORMS

- a) No licensee shall submit any claim, bill or governmental assistance claim to a third-party payor for occupational therapy services rendered to any client that involves dishonesty, fraud, deception or misrepresentation.
- b) No licensee shall submit to a third-party payor any claim, bill or governmental assistance claim, which contains any of the following:
 - 1) Any treatment date, which does not accurately reflect the date when the services were actually provided;
 - 2) Any description of an occupational therapy service, which does not accurately reflect the actual service provided;
 - 3) Any statement material to the claim, which is known to be false or misleading; or
 - 4) A charge for any service the amount of which has been advertised as free or complimentary or for an amount that exceeds the advertised charge for discounted services.
- c) A licensee who provides occupational therapy services to a client enrolled in any insurance plan with co-payment features and who intends to waive any part of the co-payment or all of the co-payment by the client shall, when submitting any claim or bill to the third-party payor, conspicuously disclose on the face of the claim or bill in a legible manner, or in the electronic claim submission, that the co-payment, or a portion of the co-payment, has not or will not be billed to, or collected from, the client.
- d) The accuracy of all information contained in written or electronic submissions to a third-party payor, including pre-determinations, claims, bills or governmental assistance claims, shall be the personal responsibility of the licensee whose name, license number or signature appears on the signature line of the claim. In the case of electronic claims the licensee identified as the provider shall be held responsible for the accuracy of the information whether or not said licensee actually completed the claim. The Council shall presume that the licensee identified

on the claim reviewed its contents and approved its submission. It shall not be a defense to an allegation of a violation of this section that the claim was completed or submitted by an agent of the licensee.

- e) All insurance records shall be maintained pursuant to the provisions of N.J.A.C. 13:44K-10.

SUBCHAPTER 9. BUSINESS PRACTICES; PROFESSIONAL CONDUCT

13:44K-9.1 DISPLAY OF NOTICE OF LENSURE; DUPLICATE LICENSE; NOTIFICATION OF AVAILABILITY OF FEE INFORMATION

- a) All licensed occupational therapists and occupational therapy assistants shall show their licenses to clients upon request.
- b) All licensed occupational therapists and occupational therapy assistants shall ensure that the following notices are prominently displayed in a public area in any office or facility at which the licensee practices occupational therapy services:
 - 1) "Occupational therapists and occupational therapy assistants are licensed by the Occupational Therapy Advisory Council, an agency of the Division of Consumer Affairs. Any member of the public may notify the Council of any complaint relative to the practice conducted by an occupational therapist or an occupational therapy assistant. The Council address is: Division of Consumer Affairs, Occupational Therapy Advisory Council, PO Box 45037, 124 Halsey Street, Newark, New Jersey 07101."
 - 2) "INFORMATION ON PROFESSIONAL FEES IS AVAILABLE TO YOU UPON REQUEST."
- c) A licensee shall not alter or obscure any information on the biennial license in any manner.
- d) A licensee may obtain a duplicate license upon payment of the fee provided in N.J.A.C. 13:44K-11.1(a)12 or 13 and upon submission of a certification by the licensee that the original license was lost or destroyed or that a duplicate license is required by the licensee's employer.

13:44K-9.2 FINANCIAL ARRANGEMENTS WITH CLIENTS AND THIRD PARTY PAYORS

- a) Fees for occupational therapy services shall be reasonable and commensurate with the status and experience of the occupational therapist offering like services or treatment in the

geographic area and shall be consistent with the provisions of N.J.A.C. 13:44K-9.4 prohibiting excessive fees.

- b) Prior to the initiation of occupational therapy services, the occupational therapist or his or her designee shall explain to the client in an understandable manner the financial arrangements for the services that will be provided. The information provided to the client shall include the following:
 - 1) The fee for services or the basis for determining the fee to be charged;
 - 2) Whether the licensee will accept installment payments or assignment of benefits from a third party payor;
 - 3) That insurance coverage may not be available in all circumstances; and
 - 4) The financial consequences, if any, of missed sessions.
- c) An occupational therapist shall not require a client or a third party payor to pay:
 - 1) A fee for preparing an insurance claim form;
 - 2) Interest on an unpaid account unless the client has been notified of this policy, in writing, prior to the initiation of occupational therapy services;
 - 3) A full or partial fee for unkept appointments unless the client has been notified of this policy, in writing, prior to the initiation of occupational therapy services; or
 - 4) A fee for any occupational therapy service not documented in a client record in a manner consistent with N.J.A.C. 13:44K-10.1.
- d) An occupational therapist shall prepare and maintain a written list of current fees for standard services and, upon request, shall provide the list to clients. The list shall include the following information:
 - 1) Whether Medicaid clients are accepted;
 - 2) Whether Medicare clients are accepted;
 - 3) Whether other third-party payor plans are accepted; and

- 4) Whether special fee categories are available, such as for senior citizens or for members of designated groups, such as preferred provider plan members.
- e) An occupational therapist shall provide a copy of a written fee schedule to any interested person upon request.

13:44K-9.3 PROFESSIONAL INTERACTIONS WITH CLIENTS

- a) An occupational therapist or occupational therapy assistant shall advise the client or the client's legal guardian, in terms the client or the guardian can understand, of the nature and purpose of the services to be rendered and the limits and obligations associated with such services.
- b) An occupational therapist or occupational therapy assistant shall not provide occupational therapy services while under the influence of alcohol or any mind altering drug that impairs the delivery of services.

13:44K-9.4 PROHIBITION ON EXCESSIVE FEES

- a) An occupational therapist shall not charge an excessive fee for services. Factors which the Council may consider in determining whether a fee is excessive include the following:
 - 1) The time or effort required to perform the services;
 - 2) The skill required to properly perform the services;
 - 3) The nature and length of the professional relationship with the client;
 - 4) The experience, reputation and ability of the licensee performing the services;
 - 5) The nature and circumstances under which services are provided; and
 - 6) Whether the fee is set by a medical, health, educational or social agency.

13:44K-9.5 TERMINATION OF SERVICES

- a) A licensed occupational therapist shall terminate services to a client when the client has achieved the pre-determined goals established in the plan of care or when such services no longer meet the client's needs or interests.

- b) A licensed occupational therapist who is unable to provide continued professional services to a client shall terminate such services to the client and shall promptly notify the client of the termination only after making reasonable efforts to assist the client in obtaining such services from another licensee qualified to meet the needs or interests of the client.

SUBCHAPTER 10. CLIENT RECORDS

13:44K-10.1 PREPARATION AND MAINTENANCE OF CLIENT RECORDS

- a) An occupational therapist, or a licensed occupational therapy assistant acting under the supervision of a licensed occupational therapist, shall prepare and maintain for each client a contemporaneous, permanent client record that accurately reflects the client's contact with the occupational therapist or the occupational therapy assistant, whether in an office, hospital or other treatment, evaluation or consultative setting.
- b) An occupational therapist, or an occupational therapy assistant, acting under the supervision of an occupational therapist, shall include at least the following information in the client record:
- 1) The full name, as it appears on the license, of the licensee who rendered care, identification of licensure status as either an occupational therapist or occupational therapy assistant, license number and designated supervisor, if applicable. This information shall be legible and shall appear at least once on each page of the client record;
 - 2) The client's name, address and telephone number. The client's name shall appear on each page of the record;
 - 3) The location and dates of all treatments, evaluations or consultations;
 - 4) Findings upon initial evaluation, including the client's relevant history and results of appropriate tests and examinations conducted;
 - 5) A plan of care establishing measurable goals of the treatment program, including the type of treatment to be rendered and the frequency and expected duration of the treatment;
 - 6) Progress notes for each day of treatment. Progress notes shall include, at a minimum, the date the client received treatment, a description of the treatment rendered, the name

of the licensee or other person rendering treatment, and notations of the client's status regardless of whether significant changes have occurred since the last date of treatment.

- i) An occupational therapist may dictate progress or session notes for later transcription provided the transcription is dated and identified as preliminary pending the occupational therapist's final review and approval.
 - ii) All progress notes that are created by a licensed occupational therapy assistant, temporary licensed occupational therapist, temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required fieldwork component of his or her educational training, consistent with the provisions of N.J.A.C. 13:44K-5.3, shall be countersigned by the supervising occupational therapist, notwithstanding the delegation of supervision responsibilities to a licensed occupational therapy assistant pursuant to N.J.A.C. 13:44K-6.4.
 - iii) If more than one progress note appears on a page, s one signature on the page shall be sufficient to indicate review and approval of all progress notes on the page;
- 7) Periodic reassessment of the client's status consistent with the goals set forth in the treatment plan;
 - 8) Information regarding referrals to other professionals and any reports and records provided by other professionals;
 - 9) A discharge summary which includes the reason for discharge from and outcome of occupational therapy services relevant to established goals at the time of discharge; and
 - 10) Fees charged by the occupational therapist and paid by the client, unless a separate financial record is kept.
- c) A licensed occupational therapist shall periodically review and update the client's plan of care.
 - d) The permanent client record of occupational therapy services shall be retained for at least seven years from the date of the last entry, unless otherwise provided by law, or in the case of a client who is a minor at the time of the last date of treatment, the licensee shall retain the record for seven years from the last treatment or for at least two years after the minor client reaches the age of 18, whichever is later.

- e) A licensed occupational therapist, or a licensed occupational therapy assistant acting under the direction of a licensed occupational therapist, shall comply with the provisions of this section notwithstanding an employer's recordkeeping requirements.

13:44K-10.2 USE OF COMPUTER TO PREPARE CLIENT RECORDS

- a) A licensee who prepares a client record maintained solely on a personal or other computer shall use a write-protected program which:
 - 1) Contains an internal permanently activated date and time recordation for all entries;
 - 2) Automatically prepares a back-up copy of the file; and
 - 3) Is designed in such manner that, after the occupational therapist or occupational therapy assistant "signs" by means of a confidential personal code ("CPC"), the entry cannot be changed in any manner.
- b) An occupational therapist or occupational therapy assistant shall include in the client record at least two forms of identification; for example, name and record number or any other specific identifying information.
- c) An occupational therapist or occupational therapy assistant shall finalize or "sign" the entry by means of a CPC. Where more than one individual is authorized to make entries into the computer file of any client record, the occupational therapist or occupational therapy assistant responsible for the practice shall assure that each such person obtains a CPC and uses the program in the same manner. All notes made in the client record by a licensed occupational therapy assistant, temporary licensed occupational therapist, temporary licensed occupational therapy assistant or an occupational therapy student fulfilling the required fieldwork component of his or her educational training, shall be countersigned by the supervising occupational therapist pursuant to N.J.A.C. 13:44K-10.1, notwithstanding the delegation of supervision responsibilities to a licensed occupational therapy assistant pursuant to N.J.A.C. 13:44K-6.4.
- d) An occupational therapist or occupational therapy assistant shall document any addenda or corrections to a client's record in a separately dated, signed and timed note.

13:44K-10.3 RELEASE OF CLIENT RECORDS

- a) An occupational therapist shall provide one copy of the client record of the occupational therapy services provided by the licensee within 30 days of a written request by the client, the client's guardian or any other party designated by the client or the client's guardian.

- b) An occupational therapist may charge a fee for the reproduction of the client record. Such fee shall be no greater than \$1.00 per page or \$100.00 for the entire record, whichever is less. If the record request is less than 10 pages, the occupational therapist may charge up to \$10.00 to cover postage and the miscellaneous costs associated with retrieval of the record.
- c) An occupational therapist may provide a summary of the client record, unless otherwise required by law, provided that the summary adequately reflects the history of the occupational therapy services provided to the client. If a summary is provided, the charge for the summary shall not exceed \$1.00 per page or \$100.00, whichever is less. If the summary provided is less than 10 pages, the occupational therapist may charge up to \$10.00 to cover postage and the miscellaneous costs associated with producing the summary.
- d) An occupational therapist may charge a reasonable fee, consistent with the provisions of N.J.A.C. 13:44K-9.4, for the completion of reports, other than the summary provided for in (c) above, when a separate request for such reports is made.
- e) When a report is needed to enable a client to receive ongoing care by another practitioner or for use in judicial proceedings, an occupational therapist shall not require advance payment as a condition for releasing the report, except that an occupational therapist may require advance payment for release of a report prepared by the occupational therapist for use by the occupational therapist as an expert witness on behalf of the client.
- f) The provisions of this section shall not apply to an occupational therapist who provides or offers occupational therapy services in connection with a medical, health, educational or social agency when the occupational therapist does not have control over or authority to release client records pursuant to agency policy.

SUBCHAPTER 11. FEES

13:44K-11.1 FEE SCHEDULE

- a) The following fees shall be charged by the Occupational Therapy Council:
 - 1) Application fee \$100.00
 - 2) Initial license fee—occupational therapist:
 - i) If paid during the first year of the biennial renewal period 160.00
 - ii) If paid during the second year of the biennial renewal period 80.00

- 3) Initial fee—occupational therapy assistant:
 - i) If paid during the first year of the biennial renewal period 100.00
 - ii) If paid during the second year of the biennial renewal period 50.00
- 4) Biennial license renewal—occupational therapist 160.00
- 5) Biennial license renewal—occupational therapy assistant 100.00
- 6) Temporary license—occupational therapist 50.00
- 7) Temporary license—occupational therapy assistant 50.00
- 8) Temporary license renewal—occupational therapist 50.00
- 9) Temporary license renewal—occupational therapy assistant 50.00
- 10) Late renewal (up to 60 days after renewal deadline) 40.00
- 11) Reinstatement fee (over 60 days from renewal deadline) 80.00
- 12) Duplicate biennial registration fee 25.00
- 13) Duplicate wall certificate 40.00